

OFFICIAL COPY

Fresno, California

September 30, 2003

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Tom Boyajian	Council President

Dan Hobbs, City Manager  
Andy Souza, Assistant City Manager  
Hilda Cantu Montoy, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Pastor Mike Ogden, Campus Baptist Church, gave the invocation, and "President Lincoln" of Civil War Revisited, led the Pledge of Allegiance to the Flag.

PROCLAMATION OF CIVIL WAR REVISITED WEEKEND - COUNCILMEMBER DUNCAN

PROCLAMATION OF ROOSEVELT REVOLUTION DAY - COUNCILMEMBER DAGES

PROCLAMATION OF FIRE PREVENTION WEEK - MAYOR AND CITY COUNCIL

PROCLAMATION OF DISABILITY AWARENESS MONTH - MAYOR AND CITY COUNCIL

The above proclamations were read and presented.

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**APPROVE MINUTES:**

On motion of Councilmember Dages, seconded by President Boyajian, duly carried, RESOLVED, the minutes of September 23, 2003, approved, as amended, as follows:

- (1) Page 142-108, correcting the name "President Castillo" to "President Boyajian" in two places; and
- (2) Page 142-110, adding wording to the 5<sup>th</sup> sentence of Paragraph 7 that "Ms. Montoy stated she would look into the issue of the Mayor's Council of Economic Advisors filling out conflict of interest forms" as requested by Acting President Castillo.

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**COUNCIL REPORTS AND COMMENTS:**

COMMENDATIONS TO: (1) CODE ENFORCEMENT, PUBLIC WORKS, AND FRESNO AREA EXPRESS (FAX) STAFF FOR THEIR CLEAN-UP/MAINTENANCE WORK FOR THE FRESNO FAIR; (2) LYNN BOWNESS, HECD, FOR HER GREAT WORK WITH THE SUCCESSFUL SOUTHEAST JOB FAIR AT THE ASIAN VILLAGE; AND (3) FRED BURKHARDT FOR HIS GREAT WORK IN THE "STARTING, OWNING AND OPERATING A SMALL BUSINESS" WORKSHOP AT THE MOSQUEDA CENTER - COUNCILMEMBER DAGES

Commendations made.

ANNUAL ORCHID AWARDS AND DIRECTION TO STAFF TO SCHEDULE AWARDS PRESENTATION ON OCTOBER 28, 2003,  
AT 8:45 A.M. - COUNCILMEMBER CALHOUN

Direction made.

#### HOUSING TASK FORCE REPORT - PRESIDENT BOYAJIAN

President Boyajian reported an agreement had been reached between the carpenters union and the Workforce Development Board to construct in-fill housing stating that was a win-win for all, and advised a seminar was conducted Monday on Fannie Mae emphasizing that was also very positive as Fresno had not been involved in Fannie Mae housing for some time.

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#### **APPROVE AGENDA:**

**(1-G)** APPROVE APPOINTMENTS OF BRUCE MORRIS, DUANE WAHL, NANCY ELLIS, NICHOLAS PALADINO, STEPHEN LEWIS, GLORIA GARCIA, LORI CHERRY AND THERESIA ROGERSON TO THE CITY BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE

**(2-B)** CONSIDER THE PROPOSED TRIMESTER PLAN AMENDMENT PROGRAM FOR PROPOSED PLAN AMENDMENTS TO THE 2025 FRESNO GENERAL PLAN

1. RESOLUTION - AMENDING THE PLANNING GUIDELINES OF THE LOCAL PLANNING AND PROCEDURES ORDINANCE (LPPO)

The above Items **1-G** and **2-B** were removed from the agenda at the direction of Assistant City Manager Souza who advised additional review was needed and they would be rescheduled in two weeks.

On motion of Acting President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

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#### **ADOPT CONSENT CALENDAR:**

Gloria Torrez spoke to Item **1-K** stating she hoped public transit and a LNG filling station were not included in the grant and if they were she wanted the Mayor to veto the item..

Barbara Hunt, 2475 S. Walnut, spoke to Item **1-A** questioning if the project was in Fresno or Clovis and expressed concerns with the use of HOME funds. Acting President Castillo left the dais at 9:15 a.m.

**(1-A)** APPROVE AGREEMENT WITH OPPORTUNITY BUILDERS TO AWARD \$1,000,000 OF THE CITY'S HOME FUNDS FOR "THE VILLAGE AT KINGS CANYON" PROJECT, A 48-UNIT APARTMENT TAX CREDIT PROJECT

**(1-B)** APPROVE NEW HOME BUYER ASSISTANCE PROGRAM REPLACING THE CURRENT DOWN PAYMENT ASSISTANCE PROGRAM (DAP) AND THE LOWER INCOME HOME BUYER PROGRAM (LIHP)

**(1-C)** APPROVE THE PURCHASE OF A STREET EASEMENT FOR THE STREET WIDENING PROJECT AT SHAW AND WEST AVENUES IN THE AMOUNT OF \$57,300; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR ASSISTANT DIRECTOR TO EXECUTE ALL APPROPRIATE DOCUMENTS TO COMPLETE THE TRANSACTION

**(1-D) RESOLUTION NO. 2003-308** - AUTHORIZING THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO FILE AN APPLICATION WITH AND ACCEPT FROM THE STATE OF CALIFORNIA, DEPARTMENT OF PARKS AND RECREATION, GRANT FUNDING IN THE AMOUNT OF \$218,288.45 TO BE USED TO UPGRADE AND IMPROVE THE EXISTING PEDESTRIAN/BICYCLE TRAIL ALONG THE FORMER SOUTHERN PACIFIC RAILROAD RIGHT OF WAY ON THE MCKENZIE AVENUE ALIGNMENT FROM WILLOW TO CLOVIS AVENUES ("McKENZIE TRAIL")

**(1-E)** APPROVE THE DISPOSITION OF EXTRA LAND ACQUIRED WITH THE ACQUISITION OF THE SAN PABLO AVENUE RIGHT OF WAY (EL PASO AND SAN PABLO AVENUES), WITH THE SALES CONSISTING OF A 4,385 SQUARE FOOT REMNANT PARCEL TO TOM AND DELORES PISTACCHIO, A 4,084 SQUARE FOOT PARCEL TO BLOSSER ROBINSON INVESTMENT, AND A 1,076 SQUARE FOOT PARCEL TO THE GAGLIARDI FAMILY, EACH AT THE PRICE OF \$10 PER SQUARE FOOT; AND AUTHORIZE THE ASSISTANT PUBLIC WORKS DIRECTOR TO EXECUTE ALL DOCUMENTS TO COMPLETE THE TRANSFER OF OWNERSHIP WITH PRIOR REVIEW AND APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE

**(1-F)** APPROVE THE PURCHASE OF A STREET EASEMENT ON APN 410-030-55 FROM DONAGHY, ET AL., FOR THE STREET WIDENING PROJECT ON HERNDON AVENUE BETWEEN CEDAR AND WILLOW AVENUES IN THE AMOUNT OF \$8,200; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR ASSISTANT DIRECTOR TO EXECUTE ALL APPROPRIATE DOCUMENTS TO COMPLETE THE TRANSACTION AND THE COMMON USE AGREEMENT WITH THE FRESNO IRRIGATION DISTRICT

**(1-H)** REMOVED FROM THE AGENDA

**(1-J)** ACCEPT HAZARDOUS MATERIALS (HAZMAT) RESPONSE EQUIPMENT FROM THE FRESNO COUNTY ENVIRONMENTAL HEALTH DEPARTMENT, AND AUTHORIZE THE FIRE DEPARTMENT TO USE SUCH EQUIPMENT DURING HAZMAT RESPONSES

**(1-K)** AUTHORIZE THE GENERAL SERVICES DIRECTOR TO ENTER INTO A TIME EXTENSION TO AGREEMENT C-1074 TO RECEIVE GRANT FUNDS IN THE AMOUNT OF \$778,991 FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT HEAVY DUTY ENGINE INCENTIVE PROGRAM TO PAY FOR THE MAJORITY OF THE INCREMENTAL COST OF 30 LIQUID NATURAL GAS (LNG) POWERED REFUSE TRUCKS

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	Castillo

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**(9:00 A.M.) CLOSED SESSION**

**(A)** CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA)

**(B)** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - CASE NAME: CLAIM OF ARCHIE CRIPPEN

**(C)** CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: CITY OF FRESNO V. STATE OF CALIFORNIA

The City Council met in closed session at the hour of 9:20 a.m. in Room 2125 to consider the above issues and reconvened in regular open session at 10:32 a.m. with Councilmembers Dages and Sterling arriving shortly thereafter.

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**(10:00 A.M.)** CONTINUED HEARING ON REZONE APPLICATION NO. R-03-032 AND ENVIRONMENTAL FINDINGS, FILED BY

PAUL TOSTE, PROPERTY LOCATED ON THE NORTHWEST CORNER OF N. FRESNO STREET AND E. PERALTA WAY (DISTRICT 7)

142-118

9/30/03

1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. R-03-032

2. **BILL NO. B -89 - ORDINANCE NO. 2003-89** - AMEND THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-P TO C-P

President Boyajian announced the time had arrived to consider the issue and opened the hearing. An unidentified development staff member gave a brief overview of the issue as contained in the staff report as submitted.

Upon call, no one wished to be heard and President Boyajian closed the hearing.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding of Environmental Assessment No. R-03-032 resulting in a Class 32/Categorical Exemption from the requirements of the California Environmental Quality Act (CEQA) hereby approved, and the above entitled Bill No. B-89 rezoning the subject property adopted as Ordinance No. 2003-89, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Perea, Boyajian
Noes	:	None
Absent	:	Dages, Sterling

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**(10:15 A.M.)** HEARING TO CONSIDER APPEAL OF DIRECTOR'S DENIAL OF REQUEST FOR A HERNDON AVENUE ADDRESS WITHOUT VEHICULAR ACCESS TO HERNDON AVENUE, FILED BY LEE GAGE & ASSOCIATES, FOR PROPERTY LOCATED AT 327 E. FIR (DISTRICT 6)

1. **RESOLUTION NO. 2003-309** - DENYING THE REQUEST FOR A HERNDON AVENUE STREET ADDRESS FOR A PROPERTY NOT HAVING HERNDON AVENUE ACCESS

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Councilmembers Dages and Sterling arrived at 10:34 a.m.

Planner Allinder reviewed the issue as contained in the staff report as submitted and recommended the request be denied **(2 - 0)**.

Speaking to the issue were: Lee Gage, Architect and past owner of the subject property, support for the request; Chief Aranaz, who spoke to the City's current policy and in support of staff's recommendation to deny the request; Barbara Hunt, 2475 S. Walnut, support for staff recommendation; Edgar Escobedo, American Ambulance, support for staff recommendation; and Larry Fuller, Covenant Construction, builder of the proposed hotel project, support for the address request.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

Councilmember Duncan stated the two main issues were the property was on Fir Avenue -- not Herndon, and with a hotel being planned visitors and public safety were of the utmost importance, and made a motion to approve staff's recommendation to deny the request, which motion was seconded by Councilmember Dages and later acted upon.

Discussion ensued with City Attorney Montoy, Chief Aranaz, Mr. Allinder, Mr. Gage and Assistant City Manager Souza clarifying issues and/or responding to questions of Councilmember Calhoun, Acting President Castillo and President Boyajian relative to why this issue was back before Council, number of fire calls received yearly, nearby properties and uses, if access to the subject property was only from Fir Avenue, how the GIS system works, how firefighters get their directions to calls, what the purpose of this request was, if the proposed hotel would be seen from the freeway from both directions, perception that the name of a business would be more important than an address, and if the applicant looked at other properties with Herndon access. Assistant City Manager Souza and Chief Aranaz spoke briefly to the serious issue of missing a turn-off street and the importance of response time.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2003-309 denying the request for a Herndon Avenue address because it would adversely affect public health, safety and welfare hereby

adopted, by the following vote:

142-119

9/30/03

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian  
Noes : None  
Absent : None

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**(10:30 A.M.) DISCUSSION AND DIRECTION REGARDING THE PROPOSED UGM PROGRAM -- THE NEXT GENERATION**

Public Works Director Ruiz spoke to the intent of the new UGM program, gave an overview of the current situation, and reviewed the proposed new program and recommendations, all as contained in the staff report as submitted.

Barbara Hunt, 2485 S. Walnut, questioned what has been done with fees that have been collected and the meaning of urban development.

Councilmember Duncan commended staff on the issue, stated he supported the approach and direction, presented questions relative to the fees paid in northeast Fresno and how the new program would affect planned parks/traffic signals/etc., and when the fees were last adjusted (**3 - 0**), with Mr. Ruiz responding, and made a motion to approve staff's recommendations outlined in the report, which motion was seconded and later acted upon. Staff was commended and discussion ensued with Councilmembers Calhoun, Perea and Dages, City Manager Hobbs, and President Boyajian commenting on various issues and presenting questions relative to the need to keep communication open to all stakeholders and parties, insuring the designated park planned in the Figarden Loop area will be moved forward, funds budgeted for Fire Station 15, if the 5% requirement for landscaping/parks in the Roosevelt Implementation Plan could be eliminated and replaced with a UGM fee, purpose of the 5% requirement, UGM agreements with property owners, high cost to develop UGM property due to fees, planned southeast growth and concern with leap-frog development, number of homes planned in the southeast area desire to have fees stay in that area for parks, etc., the standing UGM debt and how soon it can be paid, if the BIA supported the program, if UGM fees could be used for on-going maintenance, the comprehensive plan for parks and if staff has talked with Tree Fresno, and if staff would be looking at other revenue streams such as impact and linkage fees. Mr. Ruiz, Controller Quinto, Planning & Development Director Yovino, and Councilmember Dages responded throughout to questions and comments.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, staff's recommended short-term and long-term actions outlined in the staff report hereby approved, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian  
Noes : None  
Absent : None

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**(2-C) DESIGNATION OF A COMMITTEE TO REVIEW THE REPORT SUBMITTED BY THE HUMAN RELATIONS COMMISSION REGARDING SOCIAL SERVICE FUNDING AND RETURN WITH RECOMMENDATIONS FOR ADOPTION**

President Boyajian gave a brief overview of the issue.

Barbara Hunt, 2475 S. Walnut, spoke in support of designating a committee.

Upon question, Councilmembers Sterling and Perea stated they would serve on the committee.

On motion of President Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, Councilmembers Sterling and Perea appointed to the Council committee to review the Human Relations Commission's report on social service funding and return with recommendations for adoption, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian  
Noes : None  
Absent : None

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142-120

9/30/03

**(3-B) REQUEST FOR REPORT REGARDING FISCAL YEAR 2003 END OF THE YEAR FUND BALANCES - ACTING PRESIDENT CASTILLO**

Budget Manager Smith advised the past practice has been the Finance Department reporting back to Council after the first quarter of the new fiscal year on end of year funds and on status of the first quarter, and advised that report was anticipated to be brought forth in two to three weeks. Ms. Smith, City Manager Hobbs and Finance Director/Controller Quinto responded at length to questions/comments of Acting President Castillo relative to whether balances per department were not known at this time, if any guesstimate could be given, understanding that a report was available on the numbers, clarification that this request was made last week/he was told by staff a report had been distributed (which he stated he had not seen)/he wanted to discuss the issue this date/and concern with being told this date another 3 weeks was needed, if numbers provided in the report were out of context, importance of Council knowing the where the savings are before staff brings forth an item to expend funds, when staff will be providing the report, and request to staff to schedule an item on the agenda requesting a year-end report on each departments' savings and how those savings were realized (i.e., salary savings, cut-backs, etc.). Brief discussion ensued on a timeline for the report and Ms. Quinto advised what information was available at this time.

Councilmember Calhoun raised a point of order stating one council member was directing staff to do things, noted he was not hearing a council majority say they wanted this information, stated he did not think the request was fair, appropriate or possibly correct, stated Acting President Castillo should put the request in motion form for a vote, and expressed concern stating he felt there was a problem here as staff had already stated reports were coming forth in the regular manner. President Boyajian stated he was under the impression a vote would be taken on the issue this date and upon question City Attorney Montoy clarified discussion was occurring to try formulate a motion. Mr. Hobbs stated end-of-year fund balances was something that would be provided to Council as there was an obligation to do so, clarified it was done every year, emphasized he did not have the staffing to go make an accelerated project out of this and take it out of sequence, and reiterated the practice was to provide the information at the end of the first quarter.

Acting President Castillo stated any council member should have the ability to ask staff for information that affects the public and made a motion to direct staff to report back in four weeks on savings from each department and how those savings were realized.

Speaking in support of the motion and to the importance of public accounting were: Gloria Torrez, and Barbara Hunt, 2475 S. Walnut.

On motion of Acting President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to report back in four weeks on savings from each department and how those savings were realized, by the following vote:

Ayes : Castillo, Dages, Perea, Sterling, Boyajian  
Noes : Calhoun, Duncan  
Absent : None

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**(3-C) RESOLUTION - ENDORSING POLICIES TO ENCOURAGE INVESTMENT IN LOCAL TELECOMMUNICATIONS SERVICES IN CALIFORNIA, INVESTMENT IN LOCAL COMMUNITIES AND INCREASED EMPLOYMENT OPPORTUNITIES - COUNCILMEMBER DAGES**

Councilmember Dages gave a brief overview of the intent of the resolution, stated this was somewhat of a piggy-back on Councilmember Calhoun's unemployment resolution adopted recently, noted a new resolution was distributed correcting minor errors, and added this resolution would also encourage lower wholesale rates for telecommunications business competitors.

Eric Johnson, SBC, 5555 E. Olive, spoke in support of the resolution stating it was a vehicle to encourage investment, expand infrastructure, increase jobs in this area, and it endorsed a reporting requirement on investment and jobs by telecommunications companies.

Upon question of President Boyajian, City Attorney Montoy clarified the resolution expressed the sense of the Council regarding the reporting policy issue. Councilmember Dages motion was made to adopt the ordinance.

Speaking in support of the resolution were: Hank Breen, representing CWA Local 948 and Central Labor Council members, 221 N. O Street, Madera; and Barbara Hunt, 2475 S. Walnut **(4 - 0)**.

**142-121**

**9/30/03**

Councilmember Calhoun stated he knew nothing about this issue, he wanted to hear the positions of any regulatory companies, questioned what the implications were, pointed out Council was not hearing both sides of the issue, and requested the motion-maker delay action to allow staff to provide a report and to also obtain public input. Upon question of President Boyajian, City Manager Hobbs stated staff had no response and had not reviewed the issue.

Councilmember Duncan spoke in opposition to the resolution and explained; stated things work best when government stays out of it; and stated he had a problem with the City getting involved in something that probably did not directly the city and with governments in general interfering with the free-forces of the marketplace which he stated tended to be able to resolve their own problems.

Acting President Castillo stated he was hearing “purpose and motive” and questioned relative to what the purpose of the resolution was and what the motive was, whether a company who invests in infrastructure in the city could be required to come before Council and report on employment/infrastructure investments, and if the city attorney could report back on the legality of a city reporting requirement if this resolution is adopted, with Mr. Johnson and Ms. Montoy responding throughout. Ms. Montoy clarified the resolution was only saying the City supported Federal and State policies and was not requiring reporting, and advised staff could report back in a couple of weeks on what Federal and State regulations/laws/policies require. Acting President Castillo made a motion to delay action two weeks to allow the city attorney to report back and also to allow any other company, and not just SBC, to report on their job creation and infrastructure investment. President Boyajian noted a motion was already on the floor and upon call, President Perea seconded Councilmember Dages’ earlier motion. Brief discussion ensued on whether the motion-makers would agree to a delay, Councilmember Dages spoke to the intent of the resolution, and Acting President Castillo spoke to the need for a staff report whereupon the delay was agreed to.

On motion of Councilmember Dages, seconded by Councilmember Perea, duly carried, **RESOLVED**, the above Item **3-C** laid over two weeks to allow the city attorney to report back on Federal and State regulations/laws/policies and to allow public input, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

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A motion of Councilmember Perea, seconded by Acting President Castillo, to continue into the lunch hour to hear the following item was approved on a 5-2 majority vote.

**(4-A) SCHEDULED PUBLIC COMMENT - APPEARANCE BY MIDGE BARRETT TO DISCUSS THE BLUE RIBBON COMMISSION IN RELATION TO THE ARMENIAN TOWN PROJECT**

Ms. Barrett, on behalf of Heritage Fresno, requested an extension of time for the Blue Ribbon Commission to report on the Armenian Town Project and advised of the reasons therefore.

Upon question of Acting President Castillo, Assistant City Manager Souza stated he would talk with staff and try to place the request on the agenda in one or two weeks along with a staff report. There was no further discussion.

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**LUNCH RECESS - 12:20 P.M. - 2:17 P.M.**

**(2:00 P.M.) CONTESTED CONSENT CALENDAR:**

**(1-I) RESOLUTION - AUTHORIZING THE SUBMISSION OF A PROPOSAL TO THE FRESNO COUNTY WORKFORCE INVESTMENT BOARD OFFERING THE LEASE OF A VACANT CITY-OWNED PARCEL OF LAND LOCATED AT 718 F STREET FOR THE DEVELOPMENT OF A REGIONAL VOCATIONAL TRAINING FACILITY, AND AUTHORIZE THE CITY MANAGER TO SIGN ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY**

City Manager Hobbs requested the matter be laid over one week.

**142-122**

**9/30/03**

On motion of Councilmember Duncan, seconded by President Boyajian, duly carried, RESOLVED, the above entitled Item **1-I** laid over one week, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian  
Noes : None  
Absent : None

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**(3-A) ESTABLISH A CITY-WIDE POLICY FOR CLOSURE OF ALLEYS**

Assistant Public Works Director Elam advised staff was recommending Council adopt an ordinance to codify the current policy for alley closures and further reviewed the issue as contained in the staff report as submitted.

Speaking to the issue were: Bill Milton, 1307 N. Calaveras, support for staff's recommendation , and Barbara Hunt, 2475 S. Walnut, opposed.

Councilmember Perea stated this was a quality of life issue and explained, stated the hoped Council members would pay the cost out of their infrastructure budgets, and made a motion to approve staff's recommendation to adopt an ordinance and direct staff to return with an ordinance for introduction in one week, which motion was seconded and later acted upon.

Councilmembers Dages and Duncan spoke to, and/or presented questions relative to, including language requiring residents to maintain alleys, the past cost being \$1,600 and why \$3,000 was now being stated, the decrease in southeast burglary rates due to alley closures, and clarification that 100% resident approval will be required before an alley is closed. City Attorney Montoy advised she was also recommending Council proceed with adoption of an ordinance and advised the ordinance would be basic, contain necessary findings, and would meet all legal requirements. Mr. Elam responded briefly to questions/comments of President Boyajian relative to reason for the increased cost, concurrence with including language on maintenance/clean-up, and process for locks.

On motion of Councilmember Perea, seconded by Councilmember Dages, duly carried, RESOLVED, staff's recommendation to adopt an ordinance for the closure of City alleys approved and staff directed to return in one week for an ordinance for introduction, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian  
Noes : None  
Absent : None

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**(2:30 P.M. #1) CONSIDER APPROVAL OF A STAND-ALONE TAX SHARING AGREEMENT WITH THE COUNTY OF FRESNO FOR ANNEXATION OF CERTAIN TERRITORY KNOWN AS THE CALIFORNIA-MARKS NO. 2 REORGANIZATION (VETERANS HOME PROPERTY AND ADJACENT PARCELS - LOCATED IN DISTRICT 3)**

**1. APPROVE A STAND-ALONE TAX SHARING AGREEMENT FOR THE VETERANS HOME PROPERTY AND ADJACENT PARCELS IN ACCORDANCE WITH THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF FRESNO FOR THE CALIFORNIA-MARKS NO. 2 REORGANIZATION**

**2. AUTHORIZE THE CITY MANAGER TO EXECUTE THE STAND-ALONE TAX SHARING AGREEMENT ON BEHALF OF THE**

CITY COUNCIL

-AND--

(2:30 P.M. #2) CONSIDER THE PROPOSED CALIFORNIA-MARKS NO. 2 REORGANIZATION (VETERANS HOMES) OF APPROXIMATELY 118 ACRES FROM THE NORTH CENTRAL FIRE PROTECTION DISTRICT AND THE KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE SAME TERRITORY TO THE CITY OF FRESNO, AND REQUEST FOR WAIVER OF LAFCO FILING FEES (DISTRICT 3)

1. CONSIDER AND ADOPT THE ENVIRONMENTAL FINDING OF ENVIRONMENTAL ASSESSMENT NO. R-03-41 DATED SEPTEMBER 9, 2003, THAT THE PROJECT PROPOSAL CONFORMS TO THE PROVISIONS OF THE 2025 FRESNO GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (MEIR NO. 10130)

142-123

9/30/03

2. **RESOLUTION NO. 2003-310** - APPLYING TO LAFCO IN THE MATTER OF THE PROPOSED CALIFORNIA-MARKS NO. 2 REORGANIZATION INCLUDING THE REQUEST FOR A WAIVER OF THE LAFCO PROCESS FEE OF \$9,000

Veterans Home Project Manager Barnes reviewed the above issues and recommendations, all as contained in the staff reports as submitted, advised the Board of Supervisors approved the Tax Sharing Agreement (TSA) this date, and noted slight modifications to the TSA were being recommended. Chief Assistant City Attorney Sanchez spoke to the TSA modification relative to property and sales tax terms and along with Assistant City Manager Souza and Planning & Development Director Yovino responded to questions of Acting President Castillo relative to there being no sunset clause, tax formula/distribution, why there was no sunset clause when other agreements contained them, if the property tax would remain at 8% indefinitely (**5 - 0**), and amount of sales tax expected to be generated by the project.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who expressed various concerns; and Chuck Parnell, Past State Commander of the American Legion and current President of the Central California Veterans Support Group, support for staff recommendations.

Councilmember Sterling spoke briefly to the recent groundbreaking ceremony, the vision that could be seen, and the opportunity to make history in Fresno by developing this home for retired veterans, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Duncan.

Mr. Barnes responded to questions, comments and/or concerns of Acting President Castillo, Councilmember Calhoun, and President Boyajian relative to the map including the specific site for the home, the remainder and southernmost pieces of property, and if staff was recommending all those properties be annexed, why staff was requesting the other sites be annexed, concern with the high cost paid for the home site and now paying for annexation costs, if the property owners were paying for any of the annexation costs, if staff shared the information on the additional land being annexed with Council, if the additional land was just being annexed and not purchased, and the increased property values with the project. President Boyajian stated his support and Mr. Barnes spoke briefly to the number of lots that were sold quickly and the demand for the land in that area.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, **RESOLVED**, (1) a Stand-Alone Tax Sharing Agreement for the Veterans Home property and adjacent parcels identified in the staff report in accordance with Article 2.1 of the "Amended and Restated Memorandum of Understanding (MOU) between the County of Fresno and the City of Fresno" for the California-Marks No. 2 Reorganization hereby approved, and the City Manager authorized to execute the Stand-Alone Agreement on behalf of the City Council; (2) the environmental finding of Environmental Assessment No. R-03-41 dated September 9, 2003, that the project proposal conforms to the provisions of the 2025 Fresno General Plan MEIR No. 10130 hereby approved, and (3) the above entitled Resolution No. 2003-310 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Castillo
Absent	:	None

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(2:45 P.M.) WORKSHOP RELATING TO ISSUING REQUESTS FOR PROPOSALS (RFP) ON THE PARA TRANSIT CONTRACT - COUNCILMEMBER PEREA

1. AWARD AN INTERIM CONTRACT EXTENSION TO LAIDLAW TRANSIT SERVICES FOR CONTINUATION OF HANDY RIDE

## PARA TRANSIT SERVICE

Transit General Manager Rudd reviewed the issue as contained in the staff report as submitted.

Speaking to the issue were: Rick Steitz, President/Business Agent, ATU, representing Laidlaw employees, who spoke at length in opposition to outsourcing, to the unfairness of the City's position, and to the financial impact an RFP would have on Laidlaw employees; Ron Rodriguez, Secretary-Treasurer, ATU 1027, support for Laidlaw and request for a 1-2 year extension; and Butch Helton, Vice President, ATU 1027, support for Laidlaw. Mr. Steitz submitted 55 letters into the record from Laidlaw employees requesting Council act in a prudent way, on file in the office of the City Clerk.

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Continued speakers were: Mike Briggs, Laidlaw Consultant, 3097 Willow, who stated he disagreed with city attorney ruling on the extension length and requested a two year extension; Gloria Torrez, opposed to privatization of FAX and Laidlaw; Stu Livensparger, 1330 E. El Dorado, request for 20 month extension; and John Ramirez, opposed to privatization.

Mr. Rudd and City Manager Hobbs responded to questions of Acting President Castillo relative to what staff looked at and how they determined in their internal cost analysis they may be able to reduce the cost of providing this service by issuing an RFP, what specifically the City provided to Laidlaw relative to management oversight, if the 77 Laidlaw employees would be hired or cut due to City management oversight, and Mr. Hobbs clarifying numbers would be official if and when the department submits a proposal. **(6 - 0)** Acting President Castillo stated any time the City says it wants to privatize and bring something in-house to save money it tells him an RFP will be put out and he felt staff was looking for a way to undercut someone who is already providing the service, stated he was very concerned with putting out any RFP citing the Convention Center outsourcing and staff's actions, and made a motion, assuming the city attorney would be researching the issue, to award a contract extension to Laidlaw to June 30, 2005, which motion was seconded by Councilmember Sterling and subsequently amended.

City Attorney Montoy, Mr. Rudd and Councilmember Perea responded to questions of Councilmember Calhoun relative to why the item was scheduled as a workshop, if staff was bringing forth their action item due to Councilmember Perea's scheduling of the issue, if the motion was appropriate, and request for explanation on the city attorney's ruling on the extension. Ms. Montoy recommended, if Council is inclined to not undergo an RFP process and approve a longer period than six months, that Council hold off until something is received in writing from the Federal government that it permissible to extend beyond six months; recommended, if staff's recommendation for a six month extension is approved, that staff be asked not to proceed with the RFP until receipt of the Federal government's ruling; and noted there were protections in the Federal regulations for mass transit employees and were applicable to City and Laidlaw workers. Mr. Rudd added those provisions were contained in the previous RFP and would be contained in any future proposed RFP. Councilmember Calhoun stated with the city attorney's comments he was comfortable with letting the process move forward and wait for a ruling from the FTA and urged the motion on the floor not be adopted.

President Boyajian questioned if Acting President Castillo would be willing to modify his motion to wait for a ruling from the FTA, brief discussion ensued on how soon the FTA would be ruling on the issue, and Acting President Castillo amended his motion to extend the agreement for six months and direct staff to not proceed with a new RFP until a ruling is received from the FTA on extending beyond six months. Councilmember Dages suggested the motion be amended to extend the contract for 20 months *contingent* upon the FTA ruling stating if the ruling is favorable there would automatically be a 20 month extension and the issue would not have to come back to Council, whereupon the motion-makers accepted the new amended motion.

Councilmember Duncan stated he supported the first amended motion and questioned what was wrong with waiting to hear the FTA's ruling and hear publicly from the city attorney what any other issues or consequences to the ruling would be before taking action. Ms. Montoy stated from a legal perspective extending the contract for a period of time that has been approved (6 months) would be the safer course of action and added she would also want to work with Mr. Briggs and Laidlaw to insure all information is provided as soon as possible so when the ruling is received it will be received with all the facts known to everyone. Councilmember Duncan agreed and stated he would not support the motion on the floor and that he would have supported the previous one as it made more sense.

Ms. Hobbs stated he first heard about this matter during budget reviews with staff and stated although he was told this was something that had to be looked at he was torn and not happy because a system was in place that was working; stressed a point that was not

being given much weight and needed to be made clear was the City, as a government, had an obligation to provide the best service at the lowest possible cost; clarified staff had no other agenda other than wanting to be competitive and stated competition may provide for an opportunity to provide a quality service and do it cheaper; and stated the key point was the six month extension which would allow staff to look at what the best way was to provide the best service at the lowest possible cost.

Councilmember Calhoun stated he agreed with Councilmember Duncan and he also supported the previous motion. Councilmember Dages expressed his concern stating the administration talks about the Regional Jobs Initiative (RJI) and creating jobs and was now talking about outsourcing, lowering people's wages, and putting people on unemployment, and asked the administration to make up its mind stressing they either support the RJI or not. Acting President Castillo noted "best and lowest cost" was just mentioned and stated on any given day there could be seven different opinions on what the best and lowest was; stated one of the biggest mistakes made was putting him a position where he saw how staff could manipulate to get what they wanted every time an RFP is put out for city services; and stated he had come to understand "best and lowest" did not mean the same thing to everybody and on any given day it could be overturned, brought back four times, and if it did not meet the needs of the administration it would still not be the best and lowest cost.

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Councilmember Perea stated his support for the motion on the floor stating the employees were being paid decent wages and riders were happy. President Boyajian stated he supported Laidlaw but he also understood the legality of the issue and felt the six month extension was more prudent.

On motion of Acting President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, an interim 20-month contract extension awarded to Laidlaw Transit Services for continuation of Handy Ride paratransit services contingent upon a ruling from the Federal Transit Administration on extensions longer than six months, by the following vote:

Ayes : Castillo, Dages, Perea, Sterling  
Noes : Calhoun, Duncan, Boyajian  
Absent : None

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**UNSCHEDULED COMMUNICATION:**

APPEARANCE BY BARBARA HUNT REGARDING THE LACK OF INFRASTRUCTURE (CURBS, GUTTERS, LIGHTING) AT HUNT'S CAFÉ

Ms. Hunt noted Hunt's Café was established 53 years ago and later annexed into the city and questioned why no infrastructure has been installed. Councilmember Sterling requested Ms. Hunt schedule a meeting with her office to discuss the issue and to refer the matter to the proper department. There was no further discussion.

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**(3:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

The City Council recessed and met in joint session with the Redevelopment Agency at 4:02 p.m.

APPROVE AGENCY MINUTES OF SEPTEMBER 16, 2003

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the Agency minutes of September 16, 2003, approved as submitted.

**(A) CONSIDER APPROVAL OF TWO (2) PURCHASE AGREEMENTS FOR ACQUIRING PROPERTY IN THE SOUTHEAST FRESNO REVITALIZATION PROJECT AREA (3834 AND 3856 E. DWIGHT WAY) (AGENCY ACTION)**

Redevelopment Administrator Murphey reviewed the issue as contained in the report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, questioned if the City or a developer would profit from the housing.

Councilmember Dages stated these efforts provided for numerous entry level homes, noted the area was extremely blighted and spoke in support of the issue, and made a motion to approve staff's recommendation.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the two purchase agreements between certain property owners and the Agency, containing a purchase price and any rental terms within the intent of the staff report, and any minor modifications that the Executive Director or Redevelopment Administrator may approve, and that the City Attorney approves as to form, hereby approved, and the Executive Director or Redevelopment Administrator authorized, *not sooner than 30 days after the Agency Board approves a replacement housing plan*, to execute the purchase agreement and take such other actions, and execute such other documents including, without limitation deed acceptances, supplemental escrow instructions, or rental agreement pending escrow close, and instruments that may be necessary to finalize or carry out the intents and purpose of this action, subject to approval as to form by the city attorney's office, by the following vote:

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Ayes : Boyajian, Calhoun, Castillo, Dages, Perea, Sterling, Duncan  
Noes : None  
Absent : None

**(B) APPROVE REQUEST FOR CONFLICT OF INTEREST WAIVER FROM THE LAW FIRM OF ORRICK, HERRINGTON AND SUTCLIFFE REGARDING ROEDING INFRASTRUCTURE FINANCING (COUNCIL AND AGENCY ACTION)**

Deputy City Attorney Smith gave a brief overview of the issue and advised staff was not opposed to the waiver.

Barbara Hunt, 2475 S. Walnut, spoke in support.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the request for a conflict of interest waiver by Orrick, Herrington and Sutcliffe regarding Roeding infrastructure financing hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Dages, Perea, Sterling, Duncan  
Noes : None  
Absent : None

**(C) AUTHORIZE THE ADDITION OF A PROJECT COORDINATOR POSITION TO THE REDEVELOPMENT AGENCY (AGENCY ACTION)**

Redevelopment Administrator Murphey reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Agency Director Fitzpatrick responded briefly to questions of Councilmember Perea relative to the current number of project coordinators and number of project areas they oversee, desired qualifications, and if staff had someone in mind for the position. Chair Duncan spoke briefly in support of the issue and to the Agency's needs.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the addition of a project coordinator position to the Redevelopment Agency hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Dages, Perea, Sterling, Duncan  
Noes : None  
Absent : None

**(D) DIRECT CITY MANAGER, CITY ATTORNEY AND THE AGENCY EXECUTIVE DIRECTOR TO PREPARE A CITY/AGENCY REGULATORY POLICY FOR AN APPRENTICESHIP PROGRAM FOR CITY/RDA PUBLIC WORKS PROJECTS, AND RETURN WITH A RECOMMENDED POLICY WITHIN 60 DAYS - COUNCILMEMBER DAGES (COUNCIL AND AGENCY ACTION)**

Councilmember Dages stated the City was trying to create jobs and stressed one of the most valuable tools was training, having a place to train, and on the job training; stated it was important for companies who are awarded City contracts to commit to the City, to the community, and to creating some jobs; noted currently there was a shortage of jobs in the construction industry and builders could not build fast enough due to the lack of qualified people; stated he wanted staff to recommend and report back with a policy in 60 days and emphasized this was a starting place as there would be changes and modifications; stressed if the City wanted to create jobs they needed to put their money where their mouth was and do something and advised unions and companies bidding on jobs were willing to do this; spoke briefly to unions and them not having any problem in getting qualified workers; **(7 - 0)** and made a motion to approve his direction as outlined above.

Speaking to the issue were: Clayton Smith, Regional Director, Associated Builders and Contractors (ABC), a non-union association, who expressed concerns with the issue and stated this was anti-competitive; Barbara Hunt 2475 S. Walnut, support; and Frank Flores, 4585 E. Floradora, support.

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**9/30/03**

Lengthy discussion ensued. City Attorney Montoy, Chief Assistant City Attorney Sanchez, and Agency Director Fitzpatrick responded to questions/comments/concerns of Acting President Castillo relative to action being requested this date, who would conduct the study/be included in the study/be at the table, if the Agency currently uses non-union companies in their contracts, how a non-union contractor awarded a contract would participate in the training program, and what staff's recommendation will be if the findings narrow the number of contractors that can bid on a project because the program is implemented. Acting President Castillo spoke briefly to the issues of unions and Project Labor Agreements (PLAs); stated if this was really a job creation tool it would not be limited to union-members only and would include anyone wanting to receive apprenticeship; and stated he would not support this as it was laid out adding it sent a message that the City was about unions and not working families. Councilmember Calhoun stated he supervised apprenticeship programs, he understood apprenticeship well and supported it; noted he shared concerns about not enough people going into training but stated he was concerned about how the issue was brought forth; advised he shared some of Acting President Castillo's concerns relative to the perception of this being primarily a product of trade unions coming forward; stated he saw some wording the resolution that he felt was inflammatory and explained; agreed all parties needed to be included in the study; and relative to the motion stated he would not support having a recommended policy come forward at this stage as it would put Council in a difficult box to say yea or nay but added he would support staff returning with a neutral *study or report*. Councilmember Dages emphasized this was not just about unions and it was more than open to anyone -- union or non-union -- who wanted to bid, and reiterated this would fall into the category of Councilmember Calhoun's unemployment resolution.

Councilmember Dages and Mr. Fitzpatrick responded to questions and/or comments of Councilmember Sterling and President Boyajian relative to adding/changing language to specify anyone could participate in the training, if adequate of noticing of meetings would occur so interested parties could participate, if Mr. Fitzpatrick was involved in the basic negotiations/discussions, if input would be obtained from all representatives, support for the issue and this being about skills for jobs, and minimum wages paid and need for unions to go after the construction industry and not always just government agencies.

Chair Duncan spoke in opposition to the issue stating the first sentence of the staff report said it all in that the California Labor Code required the provisions for apprenticeship programs in municipal public works projects; noted certain criteria to be met would exclude a lot of non-union apprenticeship programs; referenced a letter he had from the Government Affairs Director of Fair Employment and Housing relative to their concern and stated this issue had been going on in extraordinary detail and more than what was presented here; stated other issues of concern to him were compliance and the intent being to make this a union-only city; and stated this was not the time to put new mandates, regulations, and costs on private business or do anything to minimize competition elaborating throughout.

Brief discussion ensued on the motion and whether a policy or report would be brought back.

On motion of Councilmember Dages, seconded by Councilmember Perea, duly carried, **RESOLVED**, City and Agency staff directed to conduct a study and prepare a City/Agency report for an Apprenticeship Program for City/Agency public works projects, include/obtain input from all interested parties, and report back within 60 days, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Dages, Perea, Sterling  
Noes : Duncan  
Absent : None

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## ADJOURNMENT

There being no further business to bring before the joint bodies the hour of 4:59 p.m. having arrived and hearing no objections, Chair Duncan and President Boyajian declared the meeting adjourned.

**APPROVED** on the \_\_\_\_7<sup>th</sup>\_\_\_\_ day of \_\_\_\_October\_\_\_\_, 2003.

\_\_\_\_\_/s/\_\_\_\_\_  
Tom Boyajian, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk